

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re : **Chapter 11 Case No.**
LEHMAN BROTHERS HOLDINGS INC., et al., : **08-13555 (JMP)**
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Debtors. : **(Jointly Administered)**
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**STIPULATION AND ORDER ESTABLISHING PRE-TRIAL PROCEDURES
IN CONNECTION WITH THE MOTION OF DR. THOMAS MARSONER TO
DEEM PROOFS OF CLAIM TO BE TIMELY FILED BY THE CLAIMS BAR DATE**

A. On December 30, 2014, Dr. Thomas Marsoner filed a Motion to Deem Proofs of Claim To Be Timely-Filed by the Claims Bar Date [ECF No. 47589] (the “Motion”). On February 12, 2015, Lehman Brothers Holdings Inc. (“LBHI”), as Plan Administrator (the “Plan Administrator”) under the Modified Third Amended Joint Chapter 11 Plan of LBHI and its Affiliated Debtors (the “Plan”), filed its Objection to the Motion [ECF No. 48206]. On February 17, 2015, Dr. Marsoner filed a Reply in support of the Motion [ECF No. 48235].

B. On February 19, 2015, the Court directed the parties to engage in discovery concerning “the threshold issue” which the Court described as “whether or not I can deem this to be a timely filed proof of claim and that turns on . . . whether or not Dr. Marsoner was a known creditor” of the Debtors (the “Threshold Issue”). Feb. 19, 2015 Hr’g Tr. at 103:16-20.

C. Since February 19, 2015, the Plan Administrator and Dr. Marsoner (collectively, the “Parties”) have engaged in substantial discovery, including document production, interrogatories and depositions.

D. On March 29, 2016, the Parties attended a status conference during which they informed the Court that they were prepared to move forward with an evidentiary hearing on the Threshold Issue (the “Evidentiary Hearing”).

E. Upon agreement of the Parties, the Court scheduled the Evidentiary Hearing for July 25, 2016 at 10:00 am.

F. In the interest of efficiently preparing for the Evidentiary Hearing, the Parties have reached agreement as to the pre-trial procedures outlined herein.

IT IS THEREFORE HEREBY ORDERED:

1. **Service.** For purposes of complying with the procedures set forth in this Order, service by electronic mail shall be sufficient service.

2. **Computing Time.** For purposes of determining the deadlines set forth in this Order, time periods shall be computed in accordance with Fed. R. Bankr. P. 9006.

3. **Pre-Trial Memoranda.** The Parties shall serve pre-trial memoranda on June 20, 2016. Such memoranda shall set forth the parties' respective positions on the Threshold Issue and shall be no longer than twenty (20) pages. The Pre-Trial Memoranda shall be filed with the Court on or before July 20, 2016.

4. **Witness Lists.** Concurrently with service of the Pre-Trial Memoranda on June 20, the Parties shall serve witness lists identifying individuals who will likely testify on their behalf at the hearing. By June 29, 2016, the Parties shall serve rebuttal witness lists, identifying individuals whom they will likely call as rebuttal witnesses, if any, but only to the extent that these individuals are not already identified on another witness list. Each of these lists shall identify: (a) the first and last names of the witnesses; (b) the current and last place of employment and titles held by the witnesses; and (c) the general subject matter of each witness' expected testimony.

5. **Deposition Designations.** Concurrently with service of the Pre-Trial Memoranda on June 20, the Parties shall identify, by page and line number, the portions of the

deposition transcripts and/or video excerpts that they expect to introduce at the Evidentiary Hearing. By June 29, 2016, the Parties shall exchange rebuttal deposition designations identifying, by page and line number, the portions of the deposition transcripts and/or video excerpts that they expect to use at the Evidentiary Hearing, if any, but only to the extent that they were not previously identified by either of the Parties.

6. **Exhibit Lists.** By July 14, 2016, the Parties shall serve lists of pre-marked exhibits that they will likely use at the Evidentiary Hearing. These exhibit lists shall identify the exhibits by the bates-number imprinted on each of the exhibits.

7. **Pre-Trial Order.** On July 20, 2016, the Parties shall file a Joint Pre-Trial Order identifying (a) the live witnesses likely to be called by the Parties at the Evidentiary Hearing; (b) the deposition transcript excerpts and/or video excerpts likely to be introduced at the Evidentiary Hearing; and (c) a list of exhibits that are likely to be introduced at the Evidentiary Hearing, along with a Joint Documentary Appendix of such pre-marked exhibits.

8. **Pre-Trial Conference.** If the Parties determine that a pre-hearing conference would be helpful or necessary prior to the Evidentiary Hearing, they may request that the Court schedule a Pre-Trial Conference for a date within one (1) week of the Evidentiary Hearing.

9. **Court's Availability.** All dates and deadlines set forth in this Order, or otherwise agreed upon by the Parties, are subject to the Court's availability and may be modified by the Court without the need for any further order(s).

10. **Amendments.** The provisions of this Order may be amended by Order of the Court, provided, however, that the Parties may agree to extend a deadline without first seeking leave of the Court.

11. **Jurisdiction.** The Court shall retain jurisdiction over any matters related to or arising from the implementation of this Order.

Dated: New York, New York
May 9, 2016

SO ORDERED:

/s/ Shelley C. Chapman
Honorable Shelley C. Chapman

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